
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

STEVEN MICHAEL FAIRCHILD,

Petitioner,

v.

SHANE NELSON,

Respondent.

**MEMORANDUM DECISION &
ORDER DENYING CERTIFICATE
OF APPEALABILITY**

Case No. 2:17-CV-1317 DN

District Judge David Nuffer

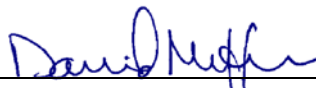
Based on the Tenth Circuit's limited remand, the Court considers whether to issue a certificate of appealability (COA) here. *See* R.11, Rs. Governing § 2254 Cases in the United States District Courts ("The district court must issue or deny a [COA] when it enters a final order adverse to the applicant.").

When a habeas petition is denied on procedural grounds, as this one was, a petitioner is entitled to a COA only if he shows that "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citing 28 U.S.C.S. § 2253 (2018)). Petitioner has not made this showing.

IT IS THEREFORE ORDERED that a COA is **DENIED**.

DATED this 15th day of October, 2019.

BY THE COURT:



JUDGE DAVID NUFFER
United States District Court